

108TH CONGRESS  
1ST SESSION

# H. R. 1341

To prospectively repeal section 210 of the Public Utility Regulatory Policies Act of 1978, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 2003

Mr. STEARNS (for himself, Mr. BURR, Mr. BILIRAKIS, Mr. TOWNS, Mr. DEUTSCH, Ms. CORRINE BROWN of Florida, Mr. MICA, and Mr. FERGUSON) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To prospectively repeal section 210 of the Public Utility Regulatory Policies Act of 1978, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ratepayer Protection  
5 Act”.

### 6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

8 (1) implementation of section 210 of the Public  
9 Utility Regulatory Policies Act of 1978 (16 U.S.C.

1       824a–3) resulted in many consumers paying exces-  
2       sive rates for electricity;

3           (2) the Energy Policy Act of 1992 gives non-  
4       regulated producers of electricity additional access to  
5       the wholesale electric market through transmission  
6       access and exemption from the Public Utility Hold-  
7       ing Company Act of 1935; and

8           (3) in light of the competitive wholesale electric  
9       marketplace brought about by the Energy Policy Act  
10      of 1992, and Federal Energy Regulatory Commis-  
11      sion Orders No. 888 and 889, section 210 of the  
12      Public Utility Regulatory Policies Act of 1978 need  
13      no longer exist.

14   **SEC. 3. PROSPECTIVE REPEAL.**

15      (a) NEW CONTRACTS.—After the date of enactment  
16      of this Act, no electric utility shall be required to enter  
17      into a new contract or obligation to purchase or to sell  
18      electric energy or capacity pursuant to section 210 of the  
19      Public Utility Regulatory Policies Act of 1978.

20      (b) EXISTING RIGHTS AND REMEDIES NOT AF-  
21      FECTED.—Nothing in this section affects the rights or  
22      remedies of any party with respect to the purchase or sale  
23      of electric energy or capacity from or to a facility deter-  
24      mined to be a qualifying small power production facility  
25      or a qualifying cogeneration facility under section 210 of

1 the Public Utility Regulatory Policies Act of 1978 pursu-  
2 ant to any contract or obligation to purchase or to sell  
3 electric energy or capacity in effect on the date of enact-  
4 ment of this Act including the right to recover the costs  
5 of purchasing such electric energy or capacity.

6 (c) INTERPRETATIONS AND ACTIONS TAKEN.—Noth-  
7 ing in this Act may be deemed or construed as implying  
8 congressional ratification of any interpretation of, or any  
9 action taken pursuant to, the Public Utility Regulatory  
10 Policies Act of 1978.

11 **SEC. 4. RECOVERY OF COSTS.**

12 In order to assure recovery by electric utilities pur-  
13 chasing electric energy or capacity from a qualifying facil-  
14 ity pursuant to any legally enforceable obligation entered  
15 into or imposed pursuant to section 210 of the Public Util-  
16 ity Regulatory Policies Act of 1978 prior to the date of  
17 enactment of this Act of all costs associated with such pur-  
18 chases, the Commission shall promulgate and enforce such  
19 regulations as may be required to assure that no utility  
20 shall be required directly or indirectly to absorb the costs  
21 associated with such purchases from a qualifying facility.  
22 Such regulations shall be treated as a rule enforceable  
23 under the Federal Power Act (16 U.S.C. 791a–825r).

24 **SEC. 5. DEFINITIONS.**

25 For purposes of this Act:

1           (1) The term “Commission” means the Federal  
2   Energy Regulatory Commission.

3           (2) The term “electric utility” means any per-  
4   son, State agency, or Federal agency, which sells  
5   electric energy.

6           (3) The term “qualifying small power produc-  
7   tion facility” has the same meaning as provided in  
8   section 3(17)(C) of the Federal Power Act.

9           (4) The term “qualifying cogeneration facility”  
10   has the same meaning as provided in section  
11   3(18)(A) of the Federal Power Act.

12          (5) The term “qualifying facility” means either  
13   a small power production facility or a qualifying co-  
14   generation facility.

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